

STATE OF SOUTH CAROLINA

(Caption of Case)

Application of FTC Communications, Inc. DBA FTC
Wireless for Designation as an Eligible
Telecommunications Carrier Pursuant to Section 214
(e)(2) of the Communications Act of 1934

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2007 - 193 - C

(Please type or print)

Submitted by: Margaret M. FoxSC Bar Number: 65418Address: McNair Law Firm, P. A.Telephone: 803-799-9800P. O. Box 11390Fax: 803-753-3219Columbia, SC 29211

Other: _____

Email: pfox@mcnair.net

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☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☐ Other: _____

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NATURE OF ACTION (Check all that apply)

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☐ Electric/Gas
☐ Electric/Telecommunications
☐ Electric/Water
☐ Electric/Water/Telecom.
☐ Electric/Water/Sewer
☐ Gas
☐ Railroad
☐ Sewer
☒ Telecommunications
☐ Transportation
☐ Water
☐ Water/Sewer
☐ Administrative Matter
☐ Other: _____

- ☐ Affidavit
☐ Agreement
☐ Answer
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☐ Comments
☐ Complaint
☐ Consent Order
☐ Discovery
☐ Exhibit
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☐ Petition
☐ Petition for Reconsideration
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MCNAIR LAW FIRM, P.A.
ATTORNEYS AND COUNSELORS AT LAW

www.mcnair.net

THE TOWER AT 1301 GERVAIS
1301 GERVAIS STREET
COLUMBIA, SOUTH CAROLINA 29201

POST OFFICE BOX 11390
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE (803)799-9800
FACSIMILE (803) 753-3219

September 17, 2007

Mr. Charles L. A. Terreni
Chief Clerk/Administrator
South Carolina Public Service Commission
Synergy Business Park, The Saluda Building
101 Executive Center Drive
Columbia, South Carolina 29210

Re: Application of FTC Communications, Inc. d/b/a FTC Wireless for
Designation as an Eligible Telecommunications Carrier Pursuant to
Section 214(e)(2) of the Communications Act of 1934
Docket No. 2007-193-C

Dear Mr. Terreni:

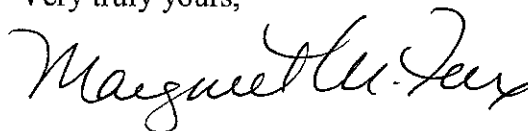
Enclosed for filing on behalf of the South Carolina Telephone Coalition, please find two copies (2) of a Proposed Order in the above-referenced docket. By copy of this letter and Certificate of Service, all parties of record are being served by U. S. Mail with a copy of the Proposed Order.

Please note that the attached document is an exact duplicate, with the exception of the form of the signature, of the e-filed copy submitted to the Commission in accordance with its electronic filing instructions.

Please clock in a copy of the Proposed Order and return it with our courier.

Thank you for your assistance.

Very truly yours,


Margaret M. Fox

MMF/rwm
Enclosures

cc: Parties of Record

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

DOCKET NO. 2007-193-C

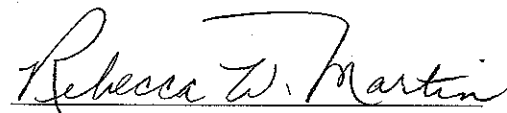
IN RE: Application of FTC Communications, Inc. DBA)
 FTC Wireless for Designation as an Eligible)
 Telecommunications Carrier Pursuant to)
 Section 214(e)(2) of the Communications Act)
 of 1934.)
_____)

**CERTIFICATE
OF SERVICE**

This is to certify that I, Rebecca W. Martin, an employee with the McNair Law Firm, P. A., have this date served one (1) copy of the attached Proposed Order in the above-referenced matter to the persons named below by causing said copies to be deposited with the United States Postal Service, first class postage prepaid and affixed thereto, and addressed as shown below.

William E. DuRant, Jr., Esquire
Schwartz, McLeod, DuRant and Jordan
10 Law Range
Sumter, South Carolina 29150

C. Lessie Hammonds, Esquire
Office of Regulatory Staff
Post Office Box 11263
Columbia, South Carolina 29211



Rebecca W. Martin
McNair Law Firm, P.A.
Post Office Box 11390
Columbia, South Carolina 29211
(803) 799-9800

September 17, 2007

Columbia, South Carolina

DOCKET NO. 2007-193-C

PROPOSED ORDER
(on behalf of SCTC)

I. PROCEDURAL BACKGROUND

This matter comes before the South Carolina Public Service Commission (“the Commission”) upon the petition of FTC Communications, Inc. DBA FTC Wireless (“FTC”) for designation as an Eligible Telecommunications Carrier (“ETC”), pursuant to 42 U.S.C. § 214(e)(2), for the purpose of receiving federal universal service funding.

A public hearing was held in this matter on July 25, 2007. FTC was represented by William E. DuRant, Jr., and Stephen G. Kraskin (*pro hac vice*). FTC presented the direct testimony of N. Douglas Horne and Ronald K. Nesmith. FTC also presented the reply testimony of Ronald K. Nesmith.

The South Carolina Telephone Coalition ("SCTC") was represented by M. John Bowen, Jr., and Sue-Ann Gerald Shannon. The SCTC presented the direct and reply testimony of Glenn H. Brown.

The Office of Regulatory Staff ("ORS") was represented by C. Lessie Hammonds and Shealy Reibold. ORS did not present a witness.

II. DISCUSSION

This docket was established to consider FTC's petition to be designated as an ETC for purposes of receiving federal USF. Section 254(e) of the federal Telecommunications Act of 1996 ("the Act") provides that only an ETC as designated under Section 214(e) of the Act may receive federal universal service support.

The goal of universal service is to ensure the widespread availability of affordable basic local exchange telephone service. Universal service has long been a public policy. See, e.g., 47 U.S.C. § 151, § 254; see also S.C. Code Ann. § 58-9-280(E), Commission Order No. 2001-419 in Docket No. 97-239-C at pp. 25-31 (Section III, Universal Service Policy and History). Any consideration of a petition to designate an ETC for purposes of receiving federal funds intended to preserve and advance universal service should be undertaken in a manner consistent with these overall goals.

Section 214(e) requires that a telecommunications carrier seeking designation as an ETC must offer the services that are supported by federal universal service support mechanisms, and must advertise the availability of those services and the charges therefor using media of general distribution.

The Federal Communications Commission ("FCC") has defined the services that are supported by Federal universal service support mechanisms to include the following nine (9) core services:

1. voice grade access to the public switched network;
2. local usage;
3. dual tone multi-frequency signaling or its functional equivalent;
4. single party service or its functional equivalent;

5. access to emergency services;
6. access to operator services;
7. access to interexchange service;
8. access to directory assistance; and
9. toll limitation for qualifying low-income consumers.

47 C.F.R. § 54.101(a). These nine services must be offered throughout the service area for which the designation is received, and must be offered using either the ETC's own facilities or a combination of its own facilities and resale of another carrier's services. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)(1). The requirement that a carrier "offer" the service does not mean that it must actually provide ubiquitous service prior to certification as an ETC and, in fact, the Commission cannot place such a condition on a carrier prior to certification. See, e.g., Federal-State Joint Board on Universal Service, RCC Holdings, Inc., Petition for Designation as an Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama, Memorandum Opinion and Order, DA 02-3181 (Wireless Comp. Bureau, rel. Nov. 27, 2002).

The FCC has adopted additional requirements that must be met by carriers seeking ETC designation from the FCC. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (released March 17, 2005) ("FCC ETC Order"). According to the FCC's additional requirements, in order to be designated as an ETC, the carrier must (1) (i) Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service and (ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area; (2) Demonstrate its ability to

remain functional in emergency situations; (3) Demonstrate that it will satisfy applicable consumer protection and service quality standards; (4) Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation; and (5) Certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area. 47 C.F.R. § 54.202(a). Specifically, with respect to the five-year plan, the FCC requires:

Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

47 C.F.R. § 54.202(a)(1)(ii).

This Commission is currently in the process of a rulemaking proceeding in Docket No. 2006-37-C to establish standards for designating ETCs in the State of South Carolina for purposes of receiving federal universal service funding. While the FCC's requirements are not binding on this Commission, we have stated that, in evaluating ETC applications such as FTC's during the interim period prior to issuance of the Commission's own ETC regulations, we will "consider the FCC's guidelines regarding designation of new ETCs in conjunction with the Commission's existing framework of analysis of ETC applications as reflected in prior Commission orders such as Order # 2005-5, dated January 7, 2005, in Docket # 2003-158-C. In other words, we should be informed by – but not controlled by – those FCC guidelines, and the

public interest should be paramount in our considerations.” See Directive issued by the Commission in Docket No. 2006-37-C, dated May 30, 2007.

With respect to the public interest determination, Section 214(e)(2) of the Act sets forth the analysis a state commission must perform in designating ETCs as follows:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

(emphasis added).

While the states are free to establish their own public interest tests, in instances where states have declined or failed to exercise their jurisdiction under Section 214(e)(2), the FCC has applied a public interest analysis pursuant to its authority under Section 214(e)(6). Initially the FCC’s standard was very lenient, and the FCC granted applications for ETC status based solely on a generalized statement by the applicant that doing so would bring the benefits of competition to the designated area. See, e.g., Guam Cellular and Paging, Inc., DA 02-174 (rel. January 12, 2002). However, concerns about exponential growth in the size of the federal USF, as well as a specific concern that the FCC’s policy was not consistent with the intended use of universal service funding in high cost areas, led to the evolution of a more stringent public interest analysis. See In the Matter of Federal State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth

of Virginia, Memorandum Opinion and Order, FCC 03-338, CC Docket No. 96-45 (released January 22, 2004) ("Virginia Cellular"); In the Matter of Federal State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order, FCC 04-37, CC Docket No. 96-45 (released April 12, 2004) ("Highland Cellular").

In these orders, the FCC clearly stated that the burden of proof was on the applicant to demonstrate that the public interest would be served by granting the application. Virginia Cellular at ¶ 26; Highland Cellular at ¶ 20. According to the FCC, the value of competition alone is not sufficient to satisfy the public interest test in rural areas. Virginia Cellular at ¶ 4; Highland Cellular at ¶ 4. The determination of public interest instead requires a fact-specific balancing of the benefits and costs. Virginia Cellular at ¶ 28; Highland Cellular at ¶ 22. Factors that should be considered include: The benefits of increased competitive choice; the impact of multiple ETC designations on the universal service fund; whether the benefits of an additional ETC outweigh any potential harms; the unique advantages and disadvantages of the competitor's service offering; any commitments regarding quality of service; and the competitive ETC's ability to provide the supported services throughout the designated service area within a reasonable time frame. Virginia Cellular at ¶ 28; Highland Cellular at ¶ 22.

Even more recently, concerns with preserving universal service funding for its intended purposes in light of a burgeoning federal universal service fund led the Federal-State Joint Board on Universal Service ("Joint Board") to recommend that the FCC "take immediate action to rein in the explosive growth in high-cost universal service disbursements" by imposing an interim, emergency cap on the amount of high-cost support that competitive ETCs may receive. Recommended Decision, In the Matter of High-Cost Universal Service Support and Federal-

State Joint Board on Universal Service, WC Docket No. 05-337 and CC Docket No. 96-45, FCC 07J-1, released May 1, 2007 ("Recommended Decision"), at ¶ 1.

While the FCC seems to be moving in the right direction in examining these issues and in applying a more fact-specific and stringent public interest analysis, we note that we are not bound by the FCC's analysis, but instead have the obligation to fulfill the statutory mandate of Congress as well as our own statutory mandate by ensuring that designating additional ETCs in South Carolina serves the public interest, convenience and necessity. Certainly with respect to rural areas, Congress has specifically expressed an affirmative mandate for the Commission to do so, and has given the Commission the discretion as to whether or not to designate multiple ETCs in such areas.¹ Before designating any carrier as an ETC in South Carolina, we must carefully consider its application; make an affirmative finding that it is in the public interest to designate that carrier as an ETC, particularly with respect to service in rural areas; and adopt reasonable and rational requirements to ensure that any carriers we may designate as ETCs in South Carolina will use the federal USF funds they receive to preserve and advance the goals of universal service.

This Commission has previously adopted a public interest test that requires us to conduct a specific, fact-intensive analysis to determine whether the public benefits associated with the designation will outweigh the public costs created by supporting an additional ETC. Order No. 2005-5 at p. 26, ¶ 7. We have also stated that, in making a public interest determination, we must keep in mind as our overriding principle the purpose of universal service funding, which is to ensure that consumers in all regions of the nation have access to quality telecommunications services at just, reasonable, and affordable rates, and that the services and rates in rural, insular,

¹ 47 U.S.C. § 214(e)(2) ("Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.").

or high cost areas are comparable to those in urban areas. Id. at p. 27, ¶ 8. As we stated in our prior order, the federal USF is and should be treated as a scarce national resource. Id. at p. 31, ¶ 15. Therefore, we must carefully weigh the costs and risks associated with granting an application for ETC designation against the asserted benefits.

III. FTC'S APPLICATION

FTC filed its Application on May 9, 2007. In its Application, FTC described the area for which it sought designation as the entire study area served by incumbent local exchange carrier ("ILEC") Farmers Telephone Cooperative ("Farmers Telephone"). Application at pp. 1, 19. Although FTC stated that it was not presently seeking certification in that portion of the study area served by ILEC Verizon where FTC is authorized to provide service, it noted that it would welcome the opportunity to receive designation in that area for the limited purpose of providing lifeline support to qualifying customers if the Commission determined it would be in the public interest to do so. Application at p. 19, n.23. FTC noted that no creamskimming analysis was necessary because it seeks to serve the entire study area of Farmers Telephone. Application at p. 19.

FTC stated that it offers the nine supported services throughout its proposed ETC service area [Application at p. 4] and that it would advertise the availability of each of the supported services throughout its service area by media of general distribution [Application at p. 10]. FTC further stated that granting its application would serve the public interest by facilitating the construction of facilities to enable FTC to offer increased wireless coverage to underserved areas and improve the quality of service in the proposed area. Application at pp. 17-19.

FTC filed an initial plan with its Application that outlined its proposed two-year network improvement plan. FTC's initial plan was granted confidential treatment by the Commission. See Order No. 2007-400. FTC explained in its Application that submission of a five-year plan would not be "meaningful" to the Commission in its determination of whether it should be designated as an ETC, offering instead to update the Commission annually on its planned expenditures of USF funds subsequent to the initial two-year period. Application at pp. 12, 13.

On July 2, 2007, FTC filed a revised two-year plan to provide additional information with respect to network improvements that FTC proposes to make during years three through five if designated as an ETC. FTC's revised plan was granted confidential treatment by the Commission. See Order No. 2007-503. Attached to FTC's initial and revised plans was a confidential map showing the current level of wireless coverage within the service area, as well as coverage to be completed by the end of 2007, and the locations of existing and proposed tower sites. FTC's initial and revised plans (collectively, "Plan") were entered into the record as Hearing Exhibit No. 1, with the plans entered under seal and subject to proprietary treatment.

FTC claims its existing offerings are comparable to ILEC local plans. FTC describes a hypothetical "Basic Universal Service Plan" that it would offer if the Commission finds that its current offerings are not comparable to that of the ILEC in the service area for which it seeks designation. Application at pp. 5-6, 16-17.

IV. FINDINGS AND CONCLUSIONS

1. The Commission has authority, pursuant to Section 214(e)(2) of the Act, to make a determination regarding FTC's application for designation as an ETC for purposes of receiving federal USF.

2. Section 214(e)(2) of the Act allows the Commission discretion in all ETC designation cases to consider the public interest, convenience, and necessity.

3. Pursuant to the statutory standard set forth in Section 214(e)(2) of the Act, the Commission “may,” but is not required to, designate more than one carrier as an ETC for a service area served by a rural telephone company.

4. With respect to areas served by rural telephone companies, before the Commission may designate additional ETCs to serve such areas, Section 214(e) of the Act requires that the Commission make an affirmative finding that such designation is in the public interest.

5. The applicant has the burden of proving that it meets the requirements to be designated, and that its designation as an ETC is in the public interest. See Virginia Cellular at ¶ 26; Highland Cellular at ¶ 20.

6. In addition to the initial threshold public interest finding, the Commission has the authority to impose additional requirements on carriers it designates as ETCs in South Carolina. Texas Office of Public Utility Counsel v. FCC, 183 F.3d 393 (5th Cir. 1999). In doing so, we will be informed by – but not controlled by – the additional requirements adopted by the FCC as set forth in 47 C.F.R. § 54.202(a).

7. FTC proposes to offer the nine services designated for universal service support set forth in 47 C.F.R. § 54.101(a), using its own facilities or a combination of its own facilities and resale of another carrier’s services. See Application at p. 9; Tr. at p. 68.

8. The additional requirements adopted by the FCC include a requirement that the carrier seeking ETC designation must demonstrate that it offers a local usage plan comparable to the one offered by the ILEC in the service area for which it seeks designation. 47 C.F.R. §

54.202(a)(4). FTC's vague reference to its intent to offer a comparable local usage plan, as specified in the FCC ETC Order, is not a sufficient demonstration that FTC offers a local usage plan comparable to that of the ILECs. FTC first argues that its existing wireless plans are "superior" to those offered by the ILECs. Tr. at pp. 15, 16, 73. FTC points to the benefits of mobility, larger calling scopes, and lack of rate distinction between local and toll calls. Application at p. 5; Tr. at pp. 16, 27. However, the record shows that FTC's present rate plans are usage sensitive and are priced significantly higher than the average \$14.35 rate that the ILECs charge for unlimited local calling. Tr. at pp. 124, 148. We have previously concluded:

We fail to see how [the trend toward more expensive nationwide plans with "buckets" of local and long distance minutes] would serve a customer whose only interest is in a basic, low-cost connection to the network and unlimited local calling, or why it is in the public interest to use universal service funds to support such services.

Order No. 2005-5 at p. 28, ¶ 11.

9. FTC also references a proposed "Basic Universal Service Plan." Application at p. 16, Tr. at pp. 20, 21, 44-45. However, although FTC stated in its Application that it "will" offer the proposed calling plan [Application at p. 16], it later stated in its pre-filed testimony that it would offer the plan "should this Commission require it" [Tr. at p. 73]. It is unclear whether FTC actually intends to offer the proposed calling plan. Moreover, FTC has failed to provide relevant information with respect to the plan, such as rates, specific terms and conditions that may apply, and identification of the local calling area. In addition, FTC provided in its Application that the plan would enable its wireless customers "to call all Farmers Telephone Cooperative local service numbers without any additional charges or long distance charges," yet fails to specify whether calls made within the same local area to numbers other than Farmers Telephone Cooperative landline customers will incur additional charges. Application at p. 6; Tr.

at p. 126. Keeping in mind our overall goal of preserving and advancing universal service in the State of South Carolina, we do not believe FTC offers a plan that is comparable to the basic local usage plans offered by the ILECs. We are mindful that we cannot regulate the entry of or the rates charged by wireless service providers. See 47 U.S.C. § 332(c)(3). We note, however, that imposing public interest conditions on carriers that seek our approval for access to federal high-cost support who also happen to be wireless carriers does not constitute regulation of their CMRS service as such. These carriers are free to enter any markets for which they hold an appropriate license, and to establish whatever services and rates they wish for their CMRS offerings in South Carolina. It is the obligation of this Commission to determine if a particular application for ETC status is in the public interest, and to establish the terms and conditions necessary to ensure that the public interest is served. We believe it is appropriate to require those CMRS providers who voluntarily come before this Commission to request designation as an ETC in South Carolina (a designation that will allow them to receive significant amounts of funding for the provision of universal service in South Carolina) to offer a basic universal service offering comparable to that offered by the incumbent local exchange carriers that provides unlimited local usage at an affordable rate.

10. In addition to using the FCC's ETC designation criteria for guidance, we will use the existing framework of analysis of ETC applications as reflected in our prior orders, specifically Order No. 2005-5 in Docket No. 2003-158-C. With respect to the threshold public interest finding, this requires us to conduct a specific, fact-intensive analysis to determine whether the benefits associated with the designation will outweigh the public costs.

11. Universal service funding is intended to ensure that consumers in all regions of the nation have access to quality telecommunications services at just, reasonable, and affordable

rates, and that the services and rates in rural, insular, or high cost areas are comparable to those in urban areas. 47 U.S.C. § 254(b). In determining whether granting a request for designation as an ETC serves the public interest, we must keep in mind this overriding principle.

12. Federal USF for ILECs is based on the incumbent's cost and is paid two years after the ILEC has already made such investments and incurred such costs. Tr. at pp. 100, 136. On the other hand, if FTC is designated as an ETC, it will receive federal USF based on the ILEC's investments and costs, and not on anything that FTC does or does not do with such universal service funds. Tr. at pp. 100, 101, 115. FTC will be eligible for funding upon designation. Tr. at p. 136. That is why it is important to examine up front how a competitive ETC plans to spend universal service money, in order to ensure that these public funds will indeed serve the public interest as determined by this Commission.

13. The primary public benefit from designating a competitive ETC does not come from improved coverage in low-cost areas the carrier already serves and where it competes with other wireless carriers, but from expanding signal coverage to previously unserved areas, where such investment would not be economically viable in the absence of such support. Tr. at pp. 116, 128, 130, 132, 133, 136-37.

14. The real issue for us to decide is not whether FTC will improve its network with any federal USF monies received, but whether the public interest will be served thereby. We find it is appropriate to grant FTC's application only if FTC has clearly demonstrated that the public benefits of doing so will exceed the public costs.

15. The Plan submitted by FTC does not demonstrate that the public benefits of designating FTC as an ETC will exceed the public costs. The FCC requires the submission of a detailed five-year plan as part of the application for a reason, and that is to allow the examination

of proposed expenditures in detail and prior to designating a carrier as an ETC. See 47 C.F.R. § 54.202(a). While this Commission is not bound by the FCC requirements, we believe it is reasonable, at a minimum, to require an applicant to demonstrate a commitment to serve, and to provide a detailed showing of how it proposes to spend federal USF funds prior to obtaining ETC designation, as set forth in 47 C.F.R. § 54.202(a)(1)(ii).

16. FTC's Plan is lacking in a number of respects. First, it lacks important and sufficient specificity in order to allow the Commission to evaluate fully the benefits that would result from expenditure of high-cost universal service funds. FTC's Plan identifies proposed new tower site locations for the first year only, which disregards the FCC designation criteria. See Tr. at pp. 114, 139-40. Even FTC's own testimony acknowledges that its Plan beyond the first year was only "generally" described. Tr. at p. 23.

17. Additionally, FTC's Plan does not provide sufficient detail regarding start and completion date of each specific improvement planned and the estimated population that will be served as a result of the improvement, as specified in 47 C.F.R. § 54.202(a)(1)(ii). See Plan (Hearing Exhibit No. 1). For Year 1, the Plan provides projected capital spending for construction of additional tower sites within a specific geographic area. Id. The Plan for Year 1 does not specify whether the estimated population to be served will result from improvements made solely with USF funding, or whether the stated population in the corresponding geographic area is already being served. Almost no information is provided for Years 2 through 5, which consists merely of projections of the total amount that will be spent each year to construct additional tower sites. The Plan for Years 2 through 5 fails to identify the specific geographic area in which each improvement project will be made or to set forth the estimated population that will be served as a result of the improvement. In addition, FTC's Plan does not show start and

end dates for specific projects, but merely states the budget year in which the expenses will be incurred.

18. Moreover, although FTC provided a baseline (“before”) coverage map, it failed to provide a true “after” coverage map showing new coverage to unserved areas funded through federal USF dollars. Tr. at p. 140; see Hearing Exhibit No. 1. This Commission cannot determine if any coverage enhancements would result from specific projected improvements made using USF high-cost support. From the limited information available, it appears that many of the proposed new towers will be located in the more heavily populated and lower cost areas that FTC currently serves. Although coverage maps may not be expressly required, ETC applicants are required to demonstrate how “signal quality, coverage or capacity will improve due to the receipt of high-cost support.” 47 C.F.R. § 54.202(a)(1)(ii). The map submitted by FTC fails to show sufficiently the resulting enhanced coverage in year one, and does not provide any information for Years 2 through 5. Tr. at p. 141.

19. In addition, FTC’s Plan failed to set forth the type of equipment² in which it will invest. Without this information, we cannot determine whether USF funds are being appropriately utilized. Tr. at pp. 121, 140-41.

20. Most notably, it appears that FTC’s proposed use of federal USF funds may merely serve as a replacement for, rather than an addition to, investments that FTC would make in the normal course of business. Tr. at pp. 116, 141. Averaged over the past four years, FTC has added approximately nine towers per year, and its Plan indicates that it would construct a similar number over the next five years. Tr. at pp. 141, 142, 151. It appears that, if designated as an ETC, FTC’s proposed use of scarce universal service dollars would not result in additional

² For instance, an inappropriate investment would include Evolution – Data Optimized (EVDO) equipment, which is necessary to provide broadband services over wireless networks. Tr. at p. 139.

incremental coverage to South Carolina's citizens, but would only serve to offset network upgrades and capacity additions that would otherwise be added without universal service support. As such, the Plan does not contain sufficient detail to allow this Commission to find that FTC's designation as an ETC, and the resulting receipt of federal funding, is in the public interest.

21. Even if FTC could demonstrate additional public benefits, these may well be temporary, because FTC has not addressed the very real risks that spreading finite universal service resources too thin will create to critical carrier of last resort principles. See Tr. at p. 98. Explosive growth in the size of the federal USF could threaten the long-term viability of the fund, thereby jeopardizing the continued provision of affordable basic local exchange service to rural subscribers. Id. Mr. Brown testified that, if the Commission grants FTC's application based upon its showing in this proceeding, other wireless service providers would likely seek ETC designation as well in order to remain competitive with each other.³ See Tr. at p. 137. As we have previously recognized, the federal USF is and should be treated as a scarce national resource.

22. We find that FTC has not met its burden of establishing that the public interest will be met by granting its request for designation as an ETC in areas served by rural telephone companies in the State of South Carolina. There is insufficient evidence in the record for this Commission to make a determination as to the benefits the public will receive in the form of expanded coverage into previously unserved areas. The evidence of record indicates that the

³ Indeed, another competitive carrier – ALLTEL – has also requested ETC designation in the same service area proposed to be served by FTC and that application is currently pending before this Commission. See Docket No. 2007-151-C.

costs and risks associated with granting FTC's request outweigh the asserted benefits. More specifically:

- FTC does not offer a local usage plan comparable to the ILECs' plans, which offer unlimited local calling at an affordable rate.
- FTC did not provide a five-year service improvement plan. FTC's Plan provides detail only for Year 1, and even the information provided for Year 1 is not sufficiently detailed to meet the minimum FCC ETC designation criteria or to allow this Commission to make a finding that designating FTC as an ETC is in the public interest.
- FTC has not provided sufficient coverage maps or other information that would demonstrate whether scarce universal service dollars are being used to expand signal coverage into previously unserved or underserved high-cost areas that would not be made absent such support, or whether they are instead being used for network upgrades and capacity additions in lower cost areas where FTC currently serves and competes with other wireless carriers.
- FTC has not provided specific information, such as before and after coverage maps and start and end dates for proposed network enhancements, to ensure that USF funding is being appropriately utilized.
- FTC has not addressed the very real risks that spreading finite universal service resources too thin will create to critical carrier of last resort principles, or the risk that explosive growth in the size of the federal USF could threaten the long-term viability of the federal USF and the continued provision of affordable basic local exchange service to rural subscribers living in high-cost areas of the state.

IT IS THEREFORE ORDERED THAT:

FTC's request for designation as an eligible telecommunications carrier within certain areas of the State of South Carolina is denied.

This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Chairman

ATTEST:

Executive Director

(SEAL)